

ORIGINAL

**BOEHM, KURTZ & LOWRY**

ATTORNEYS AT LAW  
36 EAST SEVENTH STREET  
SUITE 1510  
CINCINNATI, OHIO 45202  
TELEPHONE (513) 421-2255  
TELECOPIER (513) 421-2764



0000133195

**Via Overnight Mail**

December 29, 2011

Arizona Corporation Commission  
Attn: Docket Filing Window  
1200 West Washington Street  
Phoenix, AZ 85007

Arizona Corporation Commission

**DOCKETED**

DEC 30 2011

DOCKETED BY

AZ CORP COMMISSION  
DOCKET CONTROL

2011 DEC 30 P 2:08

RECEIVED

**Re: Docket No. E-01345A-11-0224**

Dear Sir or Madam:

Attached please find the original and 13 copies of RESPONSES OF THE KROGER CO. TO ARIZONA PUBLIC SERVICE COMPANY'S FIRST SET OF DATA REQUESTS for filing in the above-referenced matter.

All parties of record have been served. Please place this document of file.

Very Truly Yours,

Kurt J. Boehm, Esq.

BOEHM, KURTZ & LOWRY

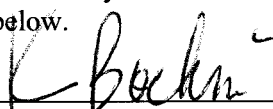
John William Moore, Jr., (Az. Bar No. 021942)

**COUNSEL FOR THE KROGER CO.**

KJB/kew  
Attachments

### CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) and regular U.S. mail 29<sup>th</sup> day of December, 2011 on the parties listed below.



Kurt J. Boehm, Esq.

John William Moore., Jr., (AZ Bar No. 021942)

Company	Contact	Address
	Mel Beard	4108 W. Calle Lejos Glendale, Arizona 85310
	Steve Chriss	2011 S.E. 10th St. Bentonville, Arkansas 72716-0500
	Craig Marks	10645 N. Tatum Blvd. Suite 200-676 Phoenix, Arizona 85028
	Scott Wakefield	201 N. Central Ave., Suite 3300 Phoenix, Arizona 85004-1052
	Jay Moyes	1850 N. Central Ave. - 1100 Phoenix, Arizona 85004
	Jeffrey Woner	K.R. SALINE & ASSOC., PLC 160 N. Pasadena, Suite 101 Mesa, Arizona 85201
	Lawrence Robertson, Jr.	PO Box 1448 Tubac, Arizona 85646
	Laura Sanchez	P.O. Box 287 Albuquerque, New Mexico 87103
	Nicholas Enoch	349 N. Fourth Ave. Phoenix, Arizona 85003
	Greg Patterson	2398 E. Camelback Rd., Ste. 240 Phoenix, Arizona 85016
	Karen White	AFLOA/JACL-ULT 139 Barnes Drive Tyndall Air Force Base, Florida 32403
	Gary Yaquinto	Arizona Utiltiy Investors Association 2100 North Central Avenue, Suite 210 Phoenix, Arizona 85004
	Michael Grant	2575 E. Camelback Rd. Phoenix, Arizona 85016-9225
	Jeffrey Crockett	One E. Washington St., Ste. 2400 Phoenix, Arizona 85004
	Michael Patten	400 E. Van Buren St. - 800 Phoenix, Arizona 85004-3906
	Cynthia Zwick	1940 E. Luke Avenue Phoenix, Arizona 85016
	John Moore, Jr.	7321 N. 16th Street Phoenix, Arizona 85020

	Bradley Carroll	One South Church Ave., Ste. UE201 Tucson, Arizona 85701
	Timothy Hogan	202 E. McDowell Rd. - 153 Phoenix, Arizona 85004
	David Berry	P.O. Box 1064 Scottsdale, Arizona 85252-1064
	Barbara Wyllie-Pecora	14410 W. Gunsight Dr. Sun City West, Arizona 85375
	Michael Curtis	501 East Thomas Road Phoenix, Arizona 85012-3205
	Daniel Pozefsky	1110 West Washington, Suite 220 Phoenix, Arizona 85007
	C. Webb Crockett	3003 N. Central Ave. - 2600 Phoenix, Arizona 85012-2913
	Janice Alward	1200 W. Washington Phoenix, Arizona 85007
	Steve Olea	1200 W. Washington St. Phoenix, Arizona 85007
Arizona Corporation Commission	Lyn Farmer	1200 W. Washington Phoenix, Arizona 85007-2927
	Meghan Grabel	P.O. Box 53999, Station 8695 Phoenix, Arizona 85072-3999

John William Moore, Jr., (Arizona Bar No. 021942)  
7321 North 16<sup>th</sup> Street  
Phoenix, AZ 85020  
Ph: 702-743-5431  
E-mail: [johnnymo22@hotmail.com](mailto:johnnymo22@hotmail.com)

**COUNSEL FOR THE KROGER CO.**

RECEIVED

2011 DEC 30 P 2:08

AZ CORP COMMISSION  
- DOCKET CONTROL

**BEFORE THE ARIZONA CORPORATION COMMISSION**

COMMISSIONERS:

**Gary Pierce, Chairman**  
**Bob Stump**  
**Sandra D. Kennedy**  
**Paul Newman**  
**Brenda Burns**

In The Matter Of The Application Of Arizona Public Service Company For A Hearing To Determine The Fair Value Of The Utility Property Of The Company For Ratemaking Purposes, To Fix A Just And Reasonable Rate Of Return Thereon, To Approve Rate Schedules Designed To Develop Such Return	:	
	:	
	:	Docket No. E-01345A-11-0224
	:	
	:	
	:	
	:	

**RESPONSES OF THE KROGER CO. TO**  
**ARIZONA PUBLIC SERVICE COMPANY'S FIRST SET OF DATA REQUESTS**

**General:**

APS 1.1 For each Kroger Witness, please provide all work papers associated with testimony filed in this case and any schedules or attachments to testimony in their original electronic form with all formulae intact.

**ANSWER:**

See attached workpapers and schedules.

APS 1.2 For each Kroger Witness, please provide a copy of all documents referenced in their testimony and not attached thereto. If a document is readily available without charge through a website, reference to such website is a sufficient response for purposes of this question.

**ANSWER**

N/A

APS 1.3 For each Kroger Witness, please provide copies of all testimony including schedules, attachments, or exhibits that the witness or members of the witness's firm have sponsored before regulatory or judicial bodies over the past 5 years that addresses the same or similar subject matter on which the witness is sponsoring testimony in this case. If testimony was provided orally, please provide a written summary of the testimony including the identity of the utility, date of the testimony, substance of the witness's recommendations and the basis for such recommendation. Please provide a copy to the final decision in each such matter. Electronic links to testimony that is publically available on internet websites are acceptable in lieu of electronic or printed copies of testimony.

**ANSWER**

Objection. This request is overly burdensome. Mr. Baron has appeared in over 60 cases in the past 5 years. Mr. Baron addressed cost allocation, rate design and/or decoupling in most of those cases. A list of Mr. Baron's testimony and subject matter is included in Exhibit SJB-1. These testimonies can be obtained on the websites of the respective state utility commission.

APS 1.4 Please provide curriculum vitae for each Kroger Witness, including identification of any degrees held by the witness and listing all professional licenses and/or accreditation.

**ANSWER**

Mr. Baron's curriculum vitae is incorporated into his testimony.

**For Kroger Witness Stephen J. Baron:**

APS 1.5      Please describe your understanding of the annual energy efficiency requirements APS would be subject to in order to comply with the Arizona Corporation Commissions Energy Efficiency Rules.

**ANSWER**

Mr. Baron has not analyzed the annual energy efficiency requirements that APS would be subject to in order to comply with the Commission's Energy Efficiency Rules as part of his testimony and analysis in this case.

APS 1.6      Does Kroger believe energy efficiency programs have the potential to reduce customer peak demand? Please explain the basis for your responses.

**ANSWER**

Mr. Baron agrees that energy efficiency programs have the potential to reduce peak demand. To the extent that direct load control programs are included in the category of energy efficiency programs, these types of programs can directly reduce peak demand by curtailing customer loads at the time of peaks. Other types of energy efficiency programs would also likely provide some reduction in peak demand, depending on the type of program (e.g., residential weatherization programs).

APS 1.7      Please describe your understanding of the Arizona Corporation Commission's Policy Statement regarding Decoupling.

**ANSWER**

Mr. Baron has reviewed the Commission's Policy Statement regarding Decoupling. The policy statement discusses issues that were considered in Commission sponsored workshops on Decoupling, identifies issues raised in these workshops and provides the Commission's guidance on mechanisms to address financial disincentives that may impact the ability of the State's utilities to achieve Arizona's energy efficiency goals. The Policy Statement permits utilities to file Decoupling mechanisms or alternative mechanisms to address utility financial disincentives to energy efficiency.

APS 1.8 Does Mr. Baron believe his testimony is consistent with the above Policy Statement?  
Please explain your answer.

**ANSWER**

Yes. Mr. Baron believes that his proposal is consistent with the Policy Statement. Mr. Baron recommends in his testimony that the Commission reject the Company's proposed decoupling mechanism for the reasons stated in his testimony and believes that the APS can meet its required energy efficiency goals without charging customers an additional charge for asserted load fixed cost recovery. In addition, Mr. Baron recommends modifications to the Company's proposed mechanism to correct some identified flaws.

DATED this 29<sup>th</sup> day of December, 2011.



---

Kurt J. Boehm, Esq.  
BOEHM, KURTZ & LOWRY  
36 East Seventh Street, Suite 1510  
Cincinnati, Ohio 45202  
Ph: 513-421-2255 Fax: 513-421-2764  
e-mail: [kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)

John William Moore, Jr. (Arizona Bar No. 021942)  
7321 North 16<sup>th</sup> Street  
Phoenix, AZ 85020  
Ph: 702-743-5431  
E-mail: [Johnnymo22@hotmail.com](mailto:Johnnymo22@hotmail.com)

**COUNSEL FOR THE KROGER CO.**